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4 The Honorable Barbara J. Rothstein  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 IN RE: PHENYLPROPANOLAMINE  
11 (PPA) PRODUCTS LIABILITY  
12 LITIGATION,  
13  
14

MDL NO. 1407

CASE MANAGEMENT ORDER  
NO. 18A REQUIREMENT OF  
ALTERNATIVE DISPUTE  
RESOLUTION

15  
16 This document relates to all  
17 actions.  
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20 **I. INTRODUCTION**

21 This Case Management Order replaces CMO No. 18 in its  
22 entirety. As soon as possible following each Remand Conference, as  
23 that term is used in CMO No. 17, the Court will issue a minute  
24 entry naming the cases the Court selects for remand. The date of  
25 issuance of the minute entry shall be the selection date for all  
26 cases included in that entry.

**II. REQUIREMENT OF ALTERNATIVE DISPUTE RESOLUTION**

Within seven (7) days following selection of a case for remand  
by this transferee court, the parties must decide whether to  
mediate. Immediately following the seven (7) day period, the

ORDER

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1 parties shall inform the Court of their decision whether or not to  
2 mediate by way of a brief joint submission titled "Election  
3 Regarding Alternative Dispute Resolution."

#### 4 **III. MEDIATION**

5       Should the parties elect to mediate, the mediation shall take  
6 place no later than one month after selection of the case for  
7 remand.

#### 8 **IV. SELECTION OF MEDIATORS**

9       The parties shall meet and confer in an attempt to agree upon  
10 a panel of regional mediators, which will include mediators from  
11 the following areas: California, Texas, Western Louisiana, Eastern  
12 Louisiana, the Northeast, the Southeast, and the remainder of the  
13 country. The parties can agree to additional mediators if deemed  
14 necessary. To the extent that the parties cannot agree on certain  
15 mediators, Plaintiffs' Steering Committee and Defendants' Steering  
16 Committee shall provide a list of nominees to Special Master  
17 Francis McGovern, who will assist the parties in reaching resolu-  
18 tion. Each mediation session shall be conducted by one mutually  
19 agreed upon mediator selected from the panel of regional mediators.  
20 The cost of the mediation will be split equally among the mediating  
21 plaintiff(s) and the mediating defendant(s) collectively. The  
22 mediator selected shall be located within the same region as the  
23 transferor court, unless the parties mutually agree otherwise.  
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1 **V. "MEET AND CONFER"**

2 Should either of the parties decline to mediate the case, the  
3 parties must participate in, and are responsible for arranging, a  
4 "meet and confer" with Special Master Francis McGovern.<sup>1</sup> The "meet  
5 and confer" shall take place no later than 21 days after the case  
6 is selected for remand. If, following the "meet and confer," the  
7 parties decide to mediate, the mediation must take place no later  
8 than 30 days from the date of the parties' decision.  
9

10 **VI. CONCLUSION**

11 To allow the parties sufficient time to make an election  
12 regarding alternative dispute resolution, and to allow such  
13 alternative dispute resolution to take place prior to remand, this  
14 Court rescinds the language in Section III(E) of CMO No. 17 to the  
15 extent that it indicates that a Suggestion of Remand Order will be  
16 issued immediately following each Remand Conference. Nothing in  
17 this Order will prevent the parties from agreeing to mediate any  
18 additional cases or groups of cases.  
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20 DATED this 10<sup>th</sup> day of December, 2003.

21  
22 /s/ Barbara Jacobs Rothstein  
23 \_\_\_\_\_

24 HONORABLE BARBARA JACOBS ROTHSTEIN  
25 UNITED STATES DISTRICT JUDGE

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<sup>1</sup>The role of Special Master McGovern is hereby expanded to  
include the duties contemplated by this Case Management Order.